

[DISCUSSION DRAFT]116TH CONGRESS
1ST SESSION**H. R.** _____

To establish or modify requirements relating to minority depository institutions and community development financial institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MEEKS introduced the following bill; which was referred to the Committee on _____

A BILL

To establish or modify requirements relating to minority depository institutions and community development financial institutions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ensuring Diversity in
5 Community Banking Act of 2019”.

1 **SEC. 2. MINORITY DEPOSITORY INSTITUTIONS ADVISORY**
2 **COMMITTEES.**

3 (a) ESTABLISHMENT.—The Board of Governors of
4 the Federal Reserve System, the Comptroller of the Cur-
5 rency, the National Credit Union Administration, and the
6 Federal Deposit Insurance Corporation shall each estab-
7 lish an advisory committee to be called the “Minority De-
8 pository Institutions Advisory Committee”.

9 (b) DUTIES.—Each Minority Depository Institutions
10 Advisory Committee shall provide advice to the respective
11 agency on meeting the goals established by section 308
12 of the Financial Institutions Reform, Recovery, and En-
13 forcement Act of 1989 (12 U.S.C. 1463 note) to preserve
14 the present number of minority depository institutions,
15 preserve the minority character of minority-owned institu-
16 tions in cases involving mergers or acquisitions, provide
17 technical assistance, and encourage the creation of new
18 minority depository institutions. The scope of the work of
19 each such Minority Depository Institutions Advisory Com-
20 mittee shall include an assessment of the current condition
21 of minority depository institutions, what regulatory
22 changes or other steps the respective agencies may be able
23 to take to fulfill the requirements of such section 308, and
24 other issues of concern to minority depository institutions.

1 (c) MEMBERSHIP.—Each Minority Depository Insti-
2 tutions Advisory Committee shall consist of no more than
3 10 members, who—

4 (1) shall serve for one two-year term;

5 (2) shall serve as a representative of a deposi-
6 tory institution with respect to which the respective
7 agency is the appropriate Federal banking agency;
8 and

9 (3) shall not receive pay by reason of their serv-
10 ice on the advisory committee, but may receive travel
11 or transportation expenses in accordance with sec-
12 tion 5703 of title 5, United States Code.

13 (d) NO TERMINATION OF ADVISORY COMMITTEES.—
14 The termination requirements under section 14 of the
15 Federal Advisory Committee Act (5 U.S.C. app.) shall not
16 apply to an advisory committee established pursuant to
17 this section.

18 (e) DEFINITIONS.—In this section, the terms “appro-
19 priate Federal banking agency” and “depository institu-
20 tion” have the meaning given those terms, respectively,
21 under section 3 of the Federal Deposit Insurance Act (12
22 U.S.C. 1813).

1 **SEC. 3. FEDERAL DEPOSITS IN MINORITY DEPOSITORY IN-**
2 **STITUTIONS.**

3 (a) IN GENERAL.—Section 308 of the Financial In-
4 stitutions Reform, Recovery, and Enforcement Act of
5 1989 (12 U.S.C. 1463 note) is amended by adding at the
6 end the following new subsection:

7 “(d) FEDERAL DEPOSITS.—The Secretary of the
8 Treasury shall ensure that deposits made by Federal agen-
9 cies in minority depository institutions are fully
10 collateralized or fully insured, as determined by the Sec-
11 retary. Such deposits may include reciprocal deposits as
12 defined in section 337.6(e)(2)(v) of title 12, Code of Fed-
13 eral Regulations (as in effect on March 6, 2019).”.

14 (b) TECHNICAL AMENDMENT.—The paragraph head-
15 ing for paragraph (1) of section 308(b) of the Financial
16 Institutions Reform, Recovery, and Enforcement Act of
17 1989 (12 U.S.C. 1463 note) is amended by striking “FI-
18 NANCIAL” and inserting “DEPOSITORY”.

19 **SEC. 4. DIVERSITY REPORT AND BEST PRACTICES.**

20 (a) ANNUAL REPORT.—Each covered regulator shall
21 submit to Congress an annual report on diversity includ-
22 ing the following:

23 (1) Data, based on voluntary self-identification,
24 on the racial, ethnic, and gender composition of the
25 examiners of each covered regulator, disaggregated
26 by length of time served as an examiner;

1 (2) The status of any examiners of covered reg-
2 ulators, based on voluntary self-identification, as a
3 veteran.

4 (3) Whether any covered regulator, as of the
5 date on which the report required under this section
6 is submitted, has adopted a policy, plan, or strategy
7 to promote racial, ethnic, and gender diversity
8 among examiners of the covered regulator.

9 (b) **BEST PRACTICES.**—Each Office of Minority and
10 Women Inclusion of a covered regulator shall develop, pro-
11 vide to the head of the covered regulator, and make pub-
12 licly available best practices—

13 (1) for increasing the diversity of candidates
14 applying for examiner positions, including through
15 outreach efforts to recruit diverse candidate to apply
16 for entry-level examiner positions;

17 (2) for retaining and providing fair consider-
18 ation for promotions within the examiner staff for
19 purposes of achieving diversity among examiners.

20 (c) **COVERED REGULATOR DEFINED.**—In this sec-
21 tion, the term “covered regulator” means the Comptroller
22 of the Currency, the Board of Governors of the Federal
23 Reserve System, the Federal Deposit Insurance Corpora-
24 tion, and the National Credit Union Administration
25 Board.

1 **SEC. 5. INVESTMENTS IN ELIGIBLE MINORITY DEPOSITORY**
2 **INSTITUTIONS.**

3 Section 2(a) of the Bank Holding Company Act of
4 1956 (12 U.S.C. 1841(a)) is amended by adding at the
5 end the following new paragraph:

6 “(7) TREATMENT OF ELIGIBLE MINORITY DE-
7 POSITORY INSTITUTION OWNERS.—

8 “(A) IN GENERAL.—For purposes of deter-
9 mining whether a company is a bank holding
10 company by reason of ownership or control of
11 an eligible minority depository institution, such
12 determination shall be made without the appli-
13 cation of subparagraph (A) or (B) of paragraph
14 (2).

15 “(B) ELIGIBLE MINORITY DEPOSITORY IN-
16 STITUTION DEFINED.—In this paragraph, the
17 term ‘eligible minority depository institution’
18 means a minority depository institution that is
19 also a community development financial institu-
20 tion with aggregate assets of less than
21 \$3,000,000,000.”.

1 **SEC. 6. REQUIREMENT TO MENTOR MINORITY DEPOSITORY**
2 **INSTITUTIONS OR COMMUNITY DEVELOP-**
3 **MENT FINANCIAL INSTITUTIONS TO SERVE**
4 **AS A DEPOSITORY OR FINANCIAL AGENT.**

5 (a) IN GENERAL.—Before a large financial institu-
6 tion may be employed as a financial agent of the Depart-
7 ment of the Treasury or perform any reasonable duties
8 as depository of public moneys of the Department of the
9 Treasury, the large financial institution shall demonstrate
10 participation as a mentor in a covered mentor-protege pro-
11 gram to a protege firm that is a minority depository insti-
12 tution or a community development financial institution.

13 (b) DEFINITIONS.—In this section:

14 (1) COVERED MENTOR-PROTEGE PROGRAM.—
15 The term “covered mentor-protege program” means
16 a mentor-protege program established by the Sec-
17 retary of the Treasury pursuant to section 45 of the
18 Small Business Act (15 U.S.C. 657r).

19 (2) LARGE FINANCIAL INSTITUTION.—The term
20 “large financial institution” means any entity—

21 (A) regulated by the Comptroller of the
22 Currency, the Board of Governors of the Fed-
23 eral Reserve System, the Federal Deposit In-
24 surance Corporation, or the National Credit
25 Union Administration; and

1 (B) that has total consolidated assets
2 greater than or equal to \$50,000,000,000.

3 **SEC. 7. CUSTODIAL DEPOSIT PROGRAM FOR COVERED MI-**
4 **NORITY DEPOSITORY INSTITUTIONS.**

5 (a) ESTABLISHMENT.—The Secretary of the Treas-
6 ury shall establish a custodial deposit program (in this sec-
7 tion referred to as the “Program”) under which a covered
8 MDI shall receive monthly deposits from a qualifying ac-
9 count.

10 (b) APPLICATION.—A covered MDI shall submit to
11 the Secretary an application to participate in the Program
12 at such time, in such manner, and containing such infor-
13 mation as the Secretary may determine.

14 (c) PROGRAM OPERATIONS.—

15 (1) DESIGNATION OF CUSTODIAL ENTITIES.—
16 The Secretary shall designate eligible custodial enti-
17 ties to make monthly deposits with covered MDIs se-
18 lected for participation in the Program on behalf of
19 a qualifying account.

20 (2) CUSTODIAL ACCOUNTS.—

21 (A) IN GENERAL.—The Secretary shall es-
22 tablish a custodial deposit account for each
23 qualifying account with the eligible custodial en-
24 tity designated to make deposits with covered
25 MDIs for each such qualifying account.

1 (B) AMOUNT.—The Secretary shall deposit
2 a total amount not greater than 5 percent of a
3 qualifying account into any custodial deposit ac-
4 counts established under subparagraph (A).

5 (C) DEPOSITS WITH PROGRAM PARTICI-
6 PANTS.—

7 (i) MONTHLY DEPOSITS.—Each
8 month, each eligible custodial entity des-
9 ignated by the Secretary shall deposit an
10 amount not greater than the insured
11 amount, in the aggregate, from each custo-
12 dial deposit account, in a single covered
13 MDI.

14 (ii) LIMITATION.—With respect to the
15 funds of an individual qualifying account,
16 the eligible custodial entity may not de-
17 posit an amount greater than the insured
18 amount in a single covered MDI.

19 (iii) INSURED AMOUNT DEFINED.—In
20 this subparagraph, the term “insured
21 amount” means the amount that is the
22 greater of—

23 (I) the standard maximum de-
24 posit insurance amount (as defined in
25 section 11(a)(1)(E) of the Federal

1 Deposit Insurance Act (12 U.S.C.
2 1821(a)(1)(E)); or

3 (II) such higher amount nego-
4 tiated between the Secretary and the
5 Corporation under which the Corpora-
6 tion will insure all deposits of such
7 higher amount.

8 (D) LIMITATIONS.—The total amount of
9 funds deposited under the Program in a covered
10 MDI may not exceed the lesser of—

11 (i) 10 percent of the average amount
12 of deposits held by such covered MDI in
13 the previous quarter; or

14 (ii) \$100,000,000.

15 (3) INTEREST.—

16 (A) IN GENERAL.—Each eligible custodial
17 entity designated by the Secretary shall—

18 (i) collect interest from each covered
19 MDI in which such custodial entity depos-
20 its funds pursuant to paragraph (2); and

21 (ii) disburse such interest to the Sec-
22 retary each month.

23 (B) INTEREST RATE.—The rate of any in-
24 terest collected under this paragraph may not
25 exceed 50 percent of the discount window pri-

1 mary credit interest rate most recently pub-
2 lished on the Federal Reserve Statistical Re-
3 lease on selected interest rates (daily or week-
4 ly), commonly referred to as the H.15 release
5 (commonly known as the “Federal funds rate”).

6 (4) STATEMENTS.—Each eligible custodial enti-
7 ty designated by the Secretary shall submit to the
8 Secretary monthly statements that include the total
9 amount of funds deposited with, and interest rate
10 received from, each covered MDI by the eligible cus-
11 todial entity on behalf of qualifying entities.

12 (5) RECORDS.—The Secretary shall issue a
13 quarterly report to Congress and make publicly
14 available a record identifying all covered MDIs
15 participating in the Program and amounts depos-
16 ited under the Program in covered MDIs.

17 (d) REQUIREMENTS RELATING TO DEPOSITS.—De-
18 posits made with covered MDIs under this section may
19 not—

20 (1) be considered by the Corporation to be
21 funds obtained, directly or indirectly, by or through
22 any deposit broker for deposit into 1 or more deposit
23 accounts (as described under section 29 of the Fed-
24 eral Deposit Insurance Act (12 U.S.C. 1831f)); or

1 (2) be subject to insurance fees from the Cor-
2 poration that are greater than insurance fees for
3 typical demand deposits not obtained, directly or in-
4 directly, by or through any deposit broker (com-
5 monly known as “core deposits”).

6 (e) MODIFICATIONS.—

7 (1) IN GENERAL.—The Secretary shall provide
8 a 3-month period for public notice and comment be-
9 fore making any material change to the operation of
10 the Program.

11 (2) EXCEPTION.—The requirements of para-
12 graph (1) shall not apply if the Secretary makes a
13 material change to the Program to comply with safe-
14 ty and soundness standards or other law.

15 (f) TERMINATION.—

16 (1) BY COVERED MDI.—A covered MDI selected
17 for participation in the Program pursuant to sub-
18 section (c) may terminate participation in the Pro-
19 gram by providing the Secretary a notification 60
20 days prior to termination.

21 (2) BY SECRETARY.—The Secretary may termi-
22 nate the participation of a covered MDI in the Pro-
23 gram if the Secretary determines the covered MDI—

24 (A) violated any terms of participation in
25 the Program;

1 (B) failed to comply with Federal bank se-
2 crecy laws, as documented in writing by the pri-
3 mary regulator of the covered MDI;

4 (C) failed to remain well capitalized; or

5 (D) failed comply with safety and sound-
6 ness standards, as documented in writing by
7 the primary regulator of the covered MDI.

8 (g) DEFINITIONS.—In this section:

9 (1) CORPORATION.—The term “Corporation”
10 means the Federal Deposit Insurance Corporation.

11 (2) COVERED MDI.—The term “covered MDI”
12 means a minority depository institution that is regu-
13 lated by the Corporation or the National Credit
14 Union Administration Board that is well capitalized
15 (as defined in section 38(b) of the Federal Deposit
16 Insurance Act (12 U.S.C. 1831o(b))).

17 (3) ELIGIBLE CUSTODIAL ENTITY.—The term
18 “eligible custodial entity” means—

19 (A) an insured depository institution (as
20 defined in section 3 of the Federal Deposit In-
21 surance Act (12 U.S.C. 1813)),

22 (B) an insured credit union (as defined in
23 section 101 of the Federal Credit Union Act
24 (12 U.S.C. 1752)), or

1 (C) or a well capitalized State-chartered
2 trust company,
3 designated by the Secretary under subsection (c)(1).

4 (4) FEDERAL BANK SECRECY LAWS.—The term
5 “Federal bank secrecy laws” means—

6 (A) section 21 of the Federal Deposit In-
7 surance Act (12 U.S.C. 1829b);

8 (B) section 123 of Public Law 91–508;
9 and

10 (C) subchapter II of chapter 53 of title 31,
11 United States Code.

12 (5) QUALIFYING ACCOUNT.—The term “quali-
13 fying account” means any account established in the
14 Department of the Treasury that—

15 (A) is controlled by the Secretary; and

16 (B) is expected to maintain a balance
17 greater than \$200,000,000 for the following
18 calendar month.

19 (6) SECRETARY.—The term “Secretary” means
20 the Secretary of the Treasury.

21 (7) WELL CAPITALIZED.—The term “well cap-
22 italized” has the meaning given in section 38 of the
23 Federal Deposit Insurance Act (12 U.S.C. 1831o).

1 **SEC. 8. APPLICATION PROCESSES FOR DE NOVO COMMU-**
2 **UNITY DEVELOPMENT FINANCIAL INSTITU-**
3 **TION APPLICANTS.**

4 (a) APPLICATION PROCESSES.—Not later than 12
5 months after the date of the enactment of this Act and
6 with respect to any person submitting an application for
7 deposit insurance with the Federal Deposit Insurance Cor-
8 poration that could also become a community development
9 financial institution, the Federal Deposit Insurance Cor-
10 poration, in consultation with the Administrator of the
11 Community Development Financial Institutions Fund,
12 shall—

13 (1) develop systems and procedures to record
14 necessary information to allow the Administrator to
15 conduct preliminary analysis for such person to also
16 become a community development financial institu-
17 tion; and

18 (2) develop procedures to streamline the appli-
19 cation and certification processes and to reduce costs
20 for such person to become a community development
21 financial institution that serves low- and moderate-
22 income neighborhoods (as defined under the Com-
23 munity Reinvestment Act of 1977 (12 U.S.C. 2901
24 et seq.).

25 (b) REPORT ON IMPLEMENTATION.—Not later than
26 18 months after the date of the enactment of this Act,

1 the Federal Deposit Insurance Corporation shall submit
2 to Congress a report describing the systems and proce-
3 dures required under subsection (a).

4 (c) ANNUAL REPORT.—

5 (1) IN GENERAL.—Section 17(a)(1) of the Fed-
6 eral Deposit Insurance Act (12 U.S.C. 1827(a)(1))
7 is amended—

8 (A) in subparagraph (E), by striking
9 “and” at the end;

10 (B) by redesignating subparagraph (F) as
11 subparagraph (G);

12 (C) by inserting after subparagraph (E)
13 the following new subparagraph:

14 “(F) applicants for deposit insurance that
15 could also become a community development fi-
16 nancial institution (as defined in section 103 of
17 the Riegle Community Development and Regu-
18 latory Improvement Act of 1994); and”.

19 (2) APPLICATION.—The amendment made by
20 this subsection shall apply with respect to the first
21 report to be submitted after the date that is 2 years
22 after the date of the enactment of this Act.

1 **SEC. 9. COMMUNITY REINVESTMENT ACT EXAMINATION OF**
2 **CERTAIN MINORITY DEPOSITORY INSTITU-**
3 **TIONS.**

4 Not later than 1 year after the date of the enactment
5 of this Act, the Federal Deposit Insurance Corporation,
6 the Comptroller of the Currency, and the Board of Gov-
7 ernors of the Federal Reserve System shall jointly propose
8 and seek public comments on processes for streamlining
9 and simplifying examination requirements under the Com-
10 munity Reinvestment Act of 1977 (12 U.S.C. 2901 et
11 seq.) for minority depository institutions that are also
12 community development financial institutions with aggre-
13 gate assets of less than \$3,000,000,000.

14 **SEC. 10. TASK FORCE ON LENDING TO SMALL BUSINESS**
15 **CONCERNS.**

16 (a) IN GENERAL.—Not later than 6 months after the
17 date of the enactment of this Act, the Administrator of
18 the Small Business Administration shall establish a task
19 force to examine methods for improving relationships be-
20 tween the Small Business Administration and community
21 development financial institutions and minority depository
22 institutions to increase the volume of loans provided by
23 such institutions to small business concerns (as defined
24 under section 3 of the Small Business Act (15 U.S.C.
25 632)).

1 (b) REPORT TO CONGRESS.—Not later than 2 years
2 after the establishment of the task force described in sub-
3 section (a), the Administrator of the Small Business Ad-
4 ministration shall submit to Congress a report on the find-
5 ings of such task force.

6 **SEC. 11. QUALIFIED OPPORTUNITY FUND INVESTMENTS IN**
7 **COMMUNITY DEVELOPMENT FINANCIAL IN-**
8 **STITUTIONS.**

9 (a) IN GENERAL.—Section 1400Z–2(d)(3) of the In-
10 ternal Revenue Code of 1986 is amended by adding at the
11 end the following new subparagraph:

12 “(C) SPECIAL RULE FOR COMMUNITY DE-
13 VELOPMENT FINANCIAL INSTITUTIONS.—The
14 term ‘qualified opportunity zone business’ shall
15 include any community development financial
16 institution (as defined in section 103 of the
17 Community Development Banking and Finan-
18 cial Institutions Act of 1994 (12 U.S.C. 4702))
19 if, during substantially all the qualified oppor-
20 tunity fund’s holding period for its investment
21 in such community development financial insti-
22 tution, the average of the aggregate amount of
23 investment, and principal amount of loans, pro-
24 vided by such community development financial
25 institution to qualified opportunity zone busi-

1 nesses (other than community development fi-
2 nancial institutions) or residents of qualified
3 opportunity zones is not less than such invest-
4 ment.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall take effect on the date of the enactment
7 of this Act.

8 **SEC. 12. SENSE OF CONGRESS ON FUNDING THE LOAN-**
9 **LOSS RESERVE FUND FOR SMALL DOLLAR**
10 **LOANS.**

11 The sense of Congress is the following:

12 (1) Title XII of the Dodd-Frank Wall Street
13 Reform and Consumer Protection Act (12 U.S.C.
14 5621 et seq.) (referred to in this section as “Dodd-
15 Frank”) was enacted to provide millions of low-to-
16 moderate income individuals living in the United
17 States the opportunity to access and utilize appro-
18 priate mainstream financial products and services.

19 (2) Title XII of Dodd-Frank authorizes the
20 Secretary of the Treasury to create multi-year grant
21 programs designed to encourage low-to-moderate in-
22 come individuals (referred to in this section as the
23 “targeted group”) to establish accounts at federally
24 insured banks. The grants are also designed to im-

1 prove the targeted group's access to such accounts
2 on reasonable terms.

3 (3) Title XII of Dodd-Frank also authorizes
4 participating institutions to issue small-dollar loans
5 to the targeted group and to provide recipients with
6 the financial counseling and education necessary to
7 conduct transactions and manage their accounts.
8 These loans provide low-cost alternatives to payday
9 loans and other non-traditional forms of financing
10 that often impose excessive interest rates and fees
11 on borrowers, and lead millions of Americans to fall
12 into debt traps. Small-dollar loans can only be made
13 pursuant to terms, conditions, and practices that are
14 reasonable for the individual consumer purchasing
15 the loan.

16 (4) Program participation is restricted to eligi-
17 ble institutions, which are limited to organizations
18 listed in section 501(c)(3) of the Internal Revenue
19 Code and exempt from tax under 501(a) of such
20 Code, federally insured depository institutions, com-
21 munity development financial institutions and State,
22 local, or tribal government entities, pursuant to title
23 XII of the Dodd-Frank.

24 (5) No such program has been established in
25 the nine years since the passage of Dodd-Frank.

1 (6) The Administration and the Congress
2 should prioritize appropriation of funds for the loan-
3 loss reserve fund and technical assistance programs
4 as mandated by title XII of Dodd-Frank, and as in-
5 cluded in the version of the 2020 Financial Services
6 and General Government Appropriations bill that
7 passed the House of Representatives in June 2019.

8 **SEC. 13. DEFINITIONS.**

9 In this Act:

10 (1) COMMUNITY DEVELOPMENT FINANCIAL IN-
11 STITUTION.—The term “community development fi-
12 nancial institution” has the meaning given under
13 section 103 of the Riegle Community Development
14 and Regulatory Improvement Act of 1994 (12
15 U.S.C. 4702).

16 (2) MINORITY DEPOSITORY INSTITUTION.—The
17 term “minority depository institution” has the
18 meaning given under section 308 of the Financial
19 Institutions Reform, Recovery, and Enforcement Act
20 of 1989 (12 U.S.C. 1463 note).